

## ARTICLE 48-12

### NONTRADITIONAL LIVESTOCK

#### Chapter

48-12-01	Nontraditional Livestock
48-12-02	Primates, Wolves, and Wolf Hybrids

#### CHAPTER 48-12-01

### NONTRADITIONAL LIVESTOCK

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**48-12-01-01. Purpose.** The board has statutory authority to regulate the importation, possession, confinement, transportation, sale, and disposition of nontraditional livestock for the following reasons:

1. To prevent the introduction and spread of disease or parasite harmful to humans and animals.
2. To prevent the escape or release of an animal injurious to or competitive with agricultural, horticultural, forestry, wild animals, and other natural resource interests.
3. To prevent the mistreatment of animals.

4. To comply with the federal law concerning endangered and threatened species.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08, 36-12.1-12

**Law Implemented:** NDCC 36-01-08, 36-21.1-12

**48-12-01-02. Definitions.** For purposes of this chapter:

1. "Board" means the North Dakota board of animal health.
2. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, llama, alpaca, or swine.
3. "Herd" means all animals commingled with other animals of the same species owned by the same person, which are confined to specific premises.
4. "Hybrid" means an animal produced by crossing species or subspecies.
5. "Import permit" or "importation permit" means a premovement authorization for entry into North Dakota obtained from the office of the state veterinarian.
6. "License" means a document obtained from the board for the raising or propagation of a species in North Dakota.
7. "Nontraditional livestock" means any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries, or an animal that is physically altered to limit movement and facilitate capture.

Category 1: Those animals that are similar to but have not been included as domestic species, including turkeys, geese, ducks (morphologically distinguishable from wild turkeys, geese, ducks), pigeons, and mules or donkeys. (These animals are subject to the rules of domestic animals.)

Category 2: Those species that have been domesticated, including ostrich, emu, chinchilla, guinea fowl, ferret, ranch foxes, ranch mink, peafowl, all pheasants not in category 3, quail, chukar, and Russian lynx. Category 2 species imported must meet the health requirements as set forth in this chapter.

- Category 3: Those species that are indistinguishable from wild, indigenous species or present a health risk to wild and domestic species, or both, including elk, deer (except those listed under subdivisions a and b of subsection 3 of section 48-12-01-03), reindeer, bighorn sheep, fallow deer, ring-necked pheasant, Bohemian pheasant, sichuan pheasant, Canadian lynx, bobcat, and raptor.
- Category 4: Those species that are considered inherently or environmentally dangerous, including bears, wolves, wolf hybrids, primates, lions, tigers, and cats (not listed previously).
- Category 5: Those species that are not categorized in categories 1 through 4 require a special license, the requirements of which will be established by the board.
8. "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.
9. "Possess" means to own, control, restrain, transport, or keep in captivity.
10. "Zoo" means an organization with a class C exhibitor's permit, which follows United States department of agriculture (USDA) regulations and are inspected by USDA/APHIS.

**History:** Effective March 1, 1994; amended effective October 1, 1998; May 1, 2003.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

#### **48-12-01-02.1. Importation permit required - Denial - Exemptions.**

1. Except as provided in this section, no person may import any nontraditional livestock without first obtaining an import permit from the office of the state veterinarian. The import permit number must be written on the certificate of veterinary inspection, unless the nontraditional livestock are being imported without a certificate of veterinary inspection for immediate slaughter pursuant to North Dakota Century Code section 36-14-10. Import permits expire thirty days after issuance and are not transferable. Upon a determination that the import permit applicant or permittee is or has been in violation of the requirements of the subject permit or that the applicant has provided inaccurate information with respect to the permit request, the state veterinarian may deny permits issued pursuant to these rules. Import permits may be obtained from the office of the state veterinarian by calling the telephone numbers listed in section 48-01-01-01.
2. The state veterinarian may deny an import permit if the state veterinarian has information that an animal:

- a. Has not met the disease testing, vaccination, and identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
  - b. Has not met or satisfied any preentry quarantine conditions imposed by law;
  - c. Is or may be infected with any contagious or infectious disease;
  - d. Has been exposed or may have been exposed to any contagious or infectious disease;
  - e. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
  - f. May be a threat to the health and well-being of the human or animal population of the state, or both.
3. Unless the state veterinarian determines it is necessary based on disease incidence information, the following are exempt from the importation permit and certificate of veterinary inspection requirement:
- a. Arachnids;
  - b. Amphibians;
  - c. Invertebrates;
  - d. Reptiles;
  - e. Tropical freshwater and saltwater fish;
  - f. Pet birds of the psittacidae and fringillidae families;
  - g. Ferrets;
  - h. Gerbils;
  - i. Guinea pigs;
  - j. Hamsters;
  - k. Mice;
  - l. Rats;
  - m. Rabbits;

- n. Sugar gliders; and
- o. Chinchillas.

The state veterinarian shall publicize the requirement for the certificate of veterinary inspection or importation permit, or both, if the certificate of veterinary inspection or importation permit, or both, should become necessary.

**History:** Effective May 1, 2003.

**General Authority:** NDCC 36-01-08, 36-21.1-12

**Law Implemented:** NDCC 36-01-08, 36-01-12, 36-21.1-12

**48-12-01-03. Permit and license requirements.** All nontraditional livestock premises must be licensed and comply with the administrative rules of the board and applicable statutes. Licenses are not required for categories 1 and 2. An owner of category 2 species must comply with all health requirements as set forth in subdivisions e and f of subsection 1.

1. Category 3, 4, or 5 nontraditional livestock may be imported into North Dakota only after the owner obtains all of the following:
  - a. An importation permit from the board.
  - b. A North Dakota nontraditional livestock license from the board which is valid for the species to be imported or possessed. The license fee is five dollars for each game bird species and ten dollars for all other species. The maximum annual fee for a person holding more than one bird species license is twenty-five dollars. The maximum annual fee for a person holding more than one nonbird species license is seventy-five dollars.
  - c. Genetic testing for purity is required for all elk or elk hybrids prior to entry into zone 1 or 2, as those zones are described in subdivision c of subsection 7. Only genetically pure elk will be allowed in zone 1 or 2.
  - d. An animal may not be imported, without approval from the board, if the animal originated in a herd that has been quarantined for a reportable disease.
  - e. An examination by an accredited veterinarian accompanied by an approved certificate of veterinary inspection. Minimum specific disease test results and health statements that must be included on a certificate of veterinary inspection include:
    - (1) Animals in the shipment must be tested for any diseases prescribed by the board.

(a) Tuberculosis.

- [1] Cervidae - all animals in the shipment must be tested negative within thirty to ninety days and the entire herd of origin within twelve months using the single strength cervical test, or if originating from an accredited free herd, only the animals in the shipment must be tested; or follow uniform method and rules and guidelines for the control of tuberculosis in cervidae as published by USDA/APHIS.
- [2] Other species - use recognized approved testing protocol.

(b) Brucellosis.

- [1] Cervidae - all animals in the shipment must be tested negative by two official brucellosis tests within thirty days, one of which must be the complement fixation test or follow uniform method and rules in control of brucellosis in cervidae as published by USDA/APHIS.
- [2] Other species - use recognized industry testing protocol.

(c) Pseudorabies. Serologic testing methodology must be conducted in accordance with board pseudorabies standards within thirty days prior to entry for the following category, except for suckling piglets accompanying a negative sow:

Suidae: Wild suidae (See also subdivisions c and d of subsection 3.)

(d) Equine infectious anemia. Serologic testing must be conducted in accordance with state equine infectious anemia protocol within twelve months prior to entry for the following category of equidae, except suckling foals accompanying a negative dam:

Equidae: All wild equidae

(e) Rabies. Any native mammal of the order carnivora that has been taken from the wild may not enter the state if a diagnosis of rabies has been made in the past twelve months in the same species in the state of origin.

- (f) Johne's disease. The following statement signed by an accredited veterinarian in the state or province of origin: "To the best of my knowledge, animals listed herein are not infected with paratuberculosis (Johne's disease) and have not been exposed to animals infected with paratuberculosis. To the best of my knowledge, the premises of origin have not been the site of a significant disease outbreak in the previous twenty-four months that was not contained and extirpated using recommended disease control".
- (g) Diseases of birds.

[1] Pullorum and fowl typhoid.

- [a] Captive wild birds as defined in this paragraph, unless going directly to slaughter, must originate from a producer who is participating in the pullorum-fowl typhoid control phase of the national poultry improvement plan (NPIP) plan or the birds must be tested serologically negative for pullorum and fowl typhoid within the past thirty days. In the case of eggs and hatchling birds, the breeder flock must be a national poultry improvement plan participant or must have been tested negative in the past thirty days. Serum testing or national poultry improvement plan active status are required for birds of the order galliformes including prairie chicken (*tympanuchus cupido*), quail, pheasants (*phasianus colchicus*), chukar (*alectoris chukar*), gray (Hungarian) partridge (*perdix perdix*), and wild turkey (*meleagris gallopavo*).
- [b] In lieu of pullorum and fowl typhoid testing of other birds, the following statement can be placed on the health certificate: "To my knowledge, birds listed herein are not infected with pullorum or fowl typhoid and have not been exposed to birds infected with pullorum or fowl typhoid during the past twelve months". This statement shall be signed by the owner or the owner's representative.

- [2] Avian tuberculosis (*Mycobacterium avium*). The certificate of veterinary inspection must read: "To my knowledge, birds listed herein are not infected with avian tuberculosis and have not been exposed to birds infected with avian tuberculosis during the last twelve months". This requirement applies to all birds, including ratites.
- [3] Duck plague (duck virus enteritis, D.V.E.) and avian cholera. The statement "To my knowledge, birds listed herein are not infected with duck plague or avian cholera and have not been exposed to birds known to be infected with duck plague or avian cholera within the past one hundred eighty days" must be written on the health certificate of all anseriformes entering the state. The statement shall be signed by the owner or the owner's representative. This statement applies to waterfowl (anseriformes).
- [4] Exotic Newcastle disease (viscerotropic, velogenic viruses) psittacosis.
  - [a] The statement "To my knowledge, birds listed herein are not infected with exotic Newcastle disease or psittacosis and have not been exposed to birds known to be infected with exotic Newcastle disease or psittacosis within the past thirty days" must be written on the health certificate of all psittacine birds entering the state. The statement shall be signed by the owner or the owner's representative. This statement applies to all psittacine birds.
  - [b] While in transit or while being offered for sale by a person holding a nontraditional livestock license and nontraditional livestock auction license, the following birds which have been associated with introductions of exotic Newcastle disease should be identified with a numbered leg band or other approved method of identification: yellow naped Amazon parrot (*Amazona ochrocephala auropalliata*), Mexican double yellow head parrot (*Amazona ochrocephala oratrix*), Mexican red head parrot (*Amazona viridigenalis*), spectacled Amazon parrot (*Amazona albifrons*), yellow cheeked



Amazon parrot (*Amazon autumnalis*), green conure (*aratinga holochlora*, *A. strenua*, *A. leucophthalmus*), military machaw (*ara militaris*), lilac crowned Amazon parrot, (*Amazona finschi*).

- [5] Mycoplasmosis. All wild turkeys of the species *meleagris gallopavo*, unless going directly to slaughter, must originate from a producer who is participating in the mycoplasmosis control phase of the national poultry improvement plan or the birds must have been tested serologically negative for *mycoplasma gallisepticum* and *M. synoviae* within the past thirty days. In the case of eggs and hatchling birds, the breeder flock must be a national poultry improvement plan participant or must have been tested negative in the past thirty days.
- f. Additional disease testing may be required from the board prior to importation or sale if there is reason to believe other diseases, parasites, or other health risks are present.
- 9. All white-tailed deer, mule deer, red deer, elk, or elk hybrids must pass a satisfactory risk assessment for chronic wasting disease conducted by the state veterinarian's office. The state veterinarian's office shall mail, fax, or otherwise deliver a risk assessment form to any person seeking an importation permit for white-tailed deer, mule deer, red deer, elk, or elk hybrids. The risk assessment form must contain such information and questions as prescribed by the state veterinarian. The state veterinarian's office may refuse entry into this state of any white-tailed deer, mule deer, red deer, elk, or elk hybrids based upon the risk assessment and any other information available. A person seeking an importation permit for white-tailed deer, mule deer, red deer, elk, or elk hybrids must be notified of the decision by the state veterinarian's office within ten days of submitting the risk assessment form. The state veterinarian's office may waive the requirement for a risk assessment if the risks to be assessed are minimal and the person applying for the importation permit has met all other statutory or rule requirements.
- 2. It is a violation of this rule to release or abandon any nontraditional livestock without prior written authorization from the board. Game bird releases must be stipulated in the license application.
- 3. The board finds that the following species, hybrids, or viable gametes (ova or semen) are detrimental to existing animals and their habitat through parasites, disease, habitat degradation, or competition.

Possession of the following species, hybrids, or viable gametes is restricted to a special license (applies to category 5).

- a. In the family bovidae, subfamily caprinae: chamois (*rupicapra*), tahr (*hemitragus*), goats, ibexes (*capra*) except domestic goat (*capra hircus*), barbary sheep or aoudad (*ammotragus*), mouflon species (*ovis musimon*), subfamily hippotraginae: oryx and gemsbok (*oryx*), addax (*addax*), subfamily redinunae: reed bucks (*redunca*), subfamily alcelaphinae: wildebeests (*connochaetes*), hartebeests (*alcelaphus*), sassabees, blesbok, bontebok, topi (*damaliscus*), subfamily water buffalo (*bubalus*).
  - b. In the family cervidae, all of the following species and hybrids: moose (*alces alces*), axis deer (*axis axis*), rusa deer (*cervus timorensis*), sambar deer (*cervus unicolor*), sika deer (*cervus nippon*), roe deer (*capreolus capreolus* and *capreolus pygargus*), red deer (*cervus elaphus*).
  - c. All wild species of the family suidae (Russian boar, European boar) and hybrids.
  - d. In the family tayassuidae: the collared peccary or javelina (*tayassu tajacu*) and hybrids.
4. A special license application will be reviewed by the nontraditional livestock advisory council. The advisory council shall recommend action to be taken by the board.
  5. These special license species may not be released, imported, transported, sold, bartered, or traded within the state except as authorized. The special license animals may be transported out of the state in compliance with the nontraditional livestock rules of the receiving state and federal laws.
  6. Persons with proof of possession prior to the effective date of these rules may possess special license species.
  7. The following nontraditional livestock are "restricted species", on the basis of specific animal health risks that they pose to wildlife and domestic livestock: white-tailed deer (*odocoileus virginianus*) and reindeer (caribou) (*rangifer sp.*), red deer and red deer hybrid.
    - a. Importation of white-tailed deer into North Dakota is allowed only for nontraditional livestock farms having a valid license. The only white-tailed deer that may be permitted entry or transported west of the one hundredth meridian are those originating from states west of the one hundredth meridian where meningeal worm has not been reported. This also applies to intrastate movement.

- b. Importation of reindeer (rangifer sp.) into North Dakota is prohibited except under the following conditions:
  - (1) All animals in shipment must be tested negative to four brucellosis serological tests.
  - (2) All animals in the shipment must originate in a herd located south of the border of Canada and the United States which is certified brucellosis (*B. suis* and *B. abortus*) and tuberculosis free as determined by whole herd testing.
  - (3) Animals must have never been exposed to tuberculosis positive animals.
- c. The importation or intrastate movement of red deer and red deer and elk hybrids requires a special license. A license will not be issued for premises in zone 1 or 2. Zone 1 is that area bordered by a line that begins at the junction of the Montana border and Missouri River, runs east along the Missouri River to highway 49, south to highway 21, west to highway 22, to the Slope-Bowman County line, and west to Montana. Zone 2 is that area bordered by a line that begins at the Minnesota state line on highway 2, runs west to Towner and north along the Souris River to the Canadian border.
- 8. Reclassification of any species listed as restricted is contingent upon compelling scientific information indicating that risks posed by these species to native wildlife populations and domestic livestock can be eliminated or managed effectively through application of new diagnostic or management technologies.
- 9. Any diseased, prohibited, or restricted animal determined by the board to pose a significant threat to the state's wildlife resources, domestic animals, or human health must be held in quarantine at the owner's expense until disposition is determined. Possession or transfer of such animals is prohibited if contrary to the determination of the board.

**History:** Effective March 1, 1994; amended effective October 1, 1998; June 30, 1999; May 16, 2000.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-04. Zoos.** Exemptions to specific testing may be allowed by the state veterinarian for endangered or highly valuable animals in instances where risk of death due to drug immobilization or physical restraint outweighs the likelihood that the animal harbors the disease in question. This applies to licensed zoos and class B brokers (as defined by the United States department of agriculture) dealing

with another licensed zoo. Zoos, research facilities, and education facilities shall comply with requirements established for nontraditional livestock.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-05. Escaped nontraditional livestock.**

1. The board may authorize an agent to seize, capture, or destroy categories 3, 4, and 5 nontraditional livestock that have escaped their possessor's control, and which are determined to be detrimental to nature, wildlife, habitat, or other wildlife resources by threat of predation, spread of disease or parasites, habitat competition, interbreeding with native wildlife and domestic animals, or other significant damage.
2. Escapes must be reported to the board within one working day.
3. The licensee shall recapture or destroy the animal within ten days except where public safety or the health of the domestic or wild population is at risk, in which case the animal may be disposed of immediately. A ten-day extension may be granted by the state veterinarian.
4. The licensee shall notify the board within one working day of the capture or death of an escaped animal.
5. The board or its designated agent may inspect any recaptured animal before it is returned to the nontraditional livestock farm.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-06. Identification.**

1. Categories 3, 4, and 5 nontraditional livestock owned by or transferred to any nontraditional livestock premises within the state of North Dakota must be individually identified as prescribed by the board.
2. Tags or identification numbers must be requested from an agent of the board during business hours. Licensees shall record the number and sex of the animals marked. A board representative shall make available the tags or identification to the nontraditional livestock operator.
3. Nontraditional livestock premises that maintain animals for the primary purpose of photography or filming may use another form of identification. The manner in which such animals will be identified must be submitted in writing to the board for approval.

4. When loss of an animal identification is discovered, the licensee shall notify an agent of the board. The animal must be identified with approved identification as soon as reasonably possible or before a license is renewed.
5. Identification assigned to an individual nontraditional livestock animal may not be transferred to any other animal.
6. Any individual identification marker issued by the board which becomes detached from the animal for which it was issued must be returned to a representative of the board.
7. All newborn nontraditional livestock must be individually marked within twelve months of birth, or prior to removal of the animal from the nontraditional livestock premises.
8. Nontraditional livestock acquired from another state or province must be marked with a North Dakota eartag unless it has an official identification tag, or must be marked as prescribed by the board, within thirty days of importation and before commingling with similar animals.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-07. Revocation of license or denial of license application.** The board may revoke any license or deny any license application and may dispose of any nontraditional livestock imported, possessed, confined, or transported for failing to comply with these rules or with conditions placed on the license at the time of issuance. The board may revoke any license or deny any license application if the applicant, or agent, falsified information on the license application or on the certificate of veterinary inspection, or falsified or failed to keep or submit records as required by this chapter. The revocation of a license or denial of a license application must comply with North Dakota Century Code chapter 28-32.

**History:** Effective March 1, 1994; amended effective October 1, 1998.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-08. Term of license.** Licenses expire on January first of each year.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-09. License renewal.** Any person possessing nontraditional livestock under a license issued pursuant to these rules shall apply for a renewal license to the board. A license is delinquent if not renewed within thirty days after

January first. When an application for renewal is received, the board may evaluate the existing holding facility to determine if it is adequate to contain the number and type of nontraditional livestock for which applied and the purpose for which they will be held.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-10. Disposition of nontraditional livestock if license expires.**

Should a license expire or be revoked, all formerly licensed nontraditional livestock in possession shall be disposed of by the licensee immediately after expiration or revocation of the license. No formerly licensed nontraditional livestock may be abandoned, released, or removed from the holding facility without prior written permission from the board. All formerly licensed nontraditional livestock remaining at the holding facility upon a reasonable period after expiration or revocation of the license may be disposed of by the board.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-11. Fencing requirements.**

1. Licensees owning nontraditional livestock shall comply with fencing standards that will assure containment. Conventional perimeter fences must follow the height requirements in this section. The bottom six feet [1.83 meters] must be a mesh of a size to prevent escape. Any supplemental wires must be at least twelve and one-half gauge and spaced no more than six inches [152.40 millimeters] apart.
  - a. Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.
  - b. All gates in the perimeter fence must be locked.
  - c. Posts must be of sufficient strength to keep nontraditional livestock securely contained. The posts must extend to the upper limits of the height requirement and be spaced no more than twenty-four feet [7.32 meters] apart.
2. The minimum standards for perimeter fences are as follows:
  - a. Elk and red deer - seven-foot [2.13-meter] fence.
  - b. Fallow deer - six-foot [1.83-meter] fence.

- c. White-tail and mule deer - eight-foot [2.44-meter] fence.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-12. Categories 3, 4, and 5 nontraditional livestock reporting.**

1. Reports must be recorded on the forms provided by the board and must be filled out completely and accurately.
2. Pages in the nontraditional livestock record book may not be discarded. Voided pages must be sent to the board.
3. The annual nontraditional livestock report must be submitted to the board by January thirty-first of each year.
4. Renewal of a nontraditional livestock license is contingent upon timely and accurate completion and submission of required reports.
5. Nontraditional livestock record books and reports must be kept on the premises of the licensed nontraditional livestock premises, residence of the nontraditional livestock operator or manager, or the principal place of business, so long as that location is within the state of North Dakota.
6. Purchase, sales, escapes, recapture, deaths, diseases, or other animal transfers, and births must be reported in the nontraditional livestock records provided by the board.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-13. Nontraditional livestock farm premises description.** A category 3, 4, or 5 nontraditional livestock farm operator shall provide a sketch or map of the proposed exterior boundary, holding and handling facilities, location of quarantine area, and proposed location of all gates, at the time of application for a nontraditional livestock license.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-14. Holding and handling facilities.** All category 3, 4, or 5 nontraditional livestock operators shall have holding and handling facilities that enable handling, marketing, and individual identification of all nontraditional

livestock on the premises. A permanent or portable handling facility must be accessible to the nontraditional livestock farm at all times.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

#### **48-12-01-15. Welfare of animals.**

1. A nontraditional livestock operator may not display or house any nontraditional livestock in such a manner as to endanger the health and safety of the public or the nontraditional livestock, as determined by an agent of the board.
2. Persons required to have licenses for holding nontraditional livestock shall meet the animal welfare requirements of this section. The purpose of this section is to ensure that the animals have adequate water, food, and shelter available and that they are held in sanitary conditions.
3. This section applies to persons with stationary and mobile facilities within the state for holding animals in cages or similar enclosures which significantly limit the animals' freedom of movement, and which, because of the limited size of the enclosure, restrict the opportunities for the animals to find food, water, shelter from the environment, and necessary space for social adjustments relative to other animals in the same enclosure.
4. The possession of a valid license from the United States department of agriculture, issued pursuant to the Animal Welfare Act, is evidence of compliance with this section. Representatives of the board may require production of the United States department of agriculture license and the most recent inspection report issued by the United States department of agriculture. If no inspection report has been issued within six months, the representatives may inspect all facilities. The report of such an inspection by a representative of the board must be filed immediately with the United States department of agriculture for species under the federal Animal Welfare Act, and a copy must be given to the owner or manager of the facility. In these instances, problems noted by the representative shall be reported to the United States department of agriculture and no state action will be taken unless the United States department of agriculture finds failure to comply with United States department of agriculture standards.
5. Persons or facilities not licensed under the federal Animal Welfare Act must meet the animal welfare requirements equivalent to the federal Animal Welfare Act. Authorized representatives of the board will perform inspections and ensure compliance. This subsection applies to category 4 animals only.



6. Humane care and housing.

- a. A license or permit may not be granted by the board until it is satisfied that the provisions for housing and caring for such nontraditional livestock and for protecting the public are proper and adequate and in accordance with the standards established by the board.
- b. The board may examine all lands, with the buildings, licensed as game bird and animal farms, deer farms, or fur farms to determine whether all nontraditional livestock held on licensed farms are treated in a humane manner and confined under sanitary conditions with proper and adequate housing, care, and food.
- c. The board may order any licensee to comply within ten days with standards prescribed in such order for the housing, care, treatment, feeding, and sanitation of nontraditional livestock by the licensee.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08, 36-21.1-12

**Law Implemented:** NDCC 36-01-08, 36-01-12, 36-21.1-12

**48-12-01-16. Waiver.** The board may waive any rule that constitutes an undue hardship to an individual nontraditional livestock operator. A nontraditional livestock operator wishing to receive a waiver of any rule shall apply to the board stating specifically why there is a compelling need to have a rule waived and showing that the grant of waiver will not threaten or adversely affect any domestic or wild animal.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-17. Confiscation procedures.** The board may seize any illegally obtained or captured native species categories 3, 4, and 5 animal and the costs may be charged to the possessor of the animals.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-18. Auction sales.**

1. A nontraditional livestock auction permit is required to conduct auctions as a business where categories 3, 4, and 5 animals are offered for sale or trade.

2. The application for an auction permit must be submitted to the board at least sixty days prior to the date of auction. Once issued, the permit is valid for that date and an alternate date.
3. Information concerning possession permits, disease testing, certificates of veterinary inspection, and animal welfare must be clearly stated in the auction announcement.
4. All potential buyers and sellers shall register at the auction and provide their state and federal permit numbers, if applicable.
5. All migratory waterfowl must be accompanied by a federal waterfowl sale and disposal permit. Original copies must be submitted to the auction office or check-in crew prior to sale and cages containing such birds must be marked with permit number and species of bird.
6. An interstate sale or offer of sale of any endangered or threatened species may not be consummated until a captive-bred wildlife permit or endangered species permit has been obtained from the United States fish and wildlife service by all parties involved.
7. Sellers of category 4 animals shall have a state permit, if required by the state of origin, and applicable federal permits.
8. Buyers of category 4 animals shall have applicable federal permits and a state permit if required by the state of residence.
9. Nonresidents purchasing nontraditional livestock at an auction, which require a state license, may possess such animals in this state for not more than ten days without permit once the animals are removed from the auction grounds.
10. Species of nontraditional livestock native to the state which require a license for possession may be shipped or transported into this state for consignment at an auction. Such animals must be accompanied by the appropriate permit from the state of origin or, when a permit is not required, another document such as a certificate of veterinary inspection indicating the state of origin.
11. All nontraditional livestock entering the state must be shipped in accordance with the disease prevention guidelines. Shipping must also conform to the requirements of the federal Animal Welfare Act and the Lacey Act.
12. An attending veterinarian shall be available during the auction. Sick or injured animals must receive veterinary care.
13. All animals present at the auction must be maintained in accordance with the animal welfare guidelines.

14. Auction sale operators shall maintain records on each animal consigned for the auction in accordance with the federal Animal Welfare Act.
15. Facilities and records may be inspected by the board to the standards of this rule, during standard working hours. Records kept in accordance with the federal Animal Welfare Act are sufficient if applicable to the species involved. Inspections made by the United States department of agriculture inspectors may be substituted for state inspection.
16. Any animal consigned to a particular sale may be sold only by the auction permittee. Private sales on the auction grounds on dates of auction are prohibited.
17. Access to the auction ground must be controlled at all times. All animals must be checked in and out by auction personnel.
18. The permittee shall notify the board within twenty-four hours of the occurrence of any unexplained diseases or deaths occurring in animals held under this permit.
19. Any documents required by the North Dakota department of agriculture must be obtained.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

#### **48-12-01-19. Quarantine area.**

1. Every category 3, 4, or 5 nontraditional livestock premises must have an approved quarantine facility within its exterior boundary or submit an action plan to the board that guarantees access to an approved quarantine facility within the state of North Dakota.
2. The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowance for the humane holding and care of its occupants for extended periods of time.
3. Should the imposition for a quarantine become necessary, the nontraditional livestock owner shall provide an onsite quarantine facility or make arrangements at the owner's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

#### **48-12-01-20. Bill of sale and transportation.**

1. Categories 3, 4, and 5 nontraditional livestock to be transferred, bought, or sold must have a bill of sale or manifest duly witnessed prior to movement to show proof of ownership.
2. A transaction must be recorded in the record book of the affected nontraditional livestock license within five days of the transaction.
3. Nontraditional livestock may be transported from out of state through North Dakota if:
  - a. Animals proceed directly through North Dakota and the owner or transporter has no intent to unload the animals.
  - b. Animals are not sold, bartered, traded, or otherwise transferred while in the state. Transfer does not include moving animals to another transport vehicle.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-21. Inspection by board personnel.** Any person issued a license under this rule to import, possess, confine, or transport live nontraditional livestock shall allow inspection of records, holding facilities, and permitted nontraditional livestock by the board during the term of the license and during normal working hours. The licensee shall accompany the person conducting the inspection. The board shall schedule the inspection.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-08, 36-01-12

**48-12-01-22. Indemnity.** In case of any serious outbreak of any contagious, infectious, or epizootic diseases among domestic animals or nontraditional livestock which cannot be controlled with the funds at the disposal of the board, the board shall notify the governor immediately, and the governor shall call a meeting of the emergency commission, which may authorize money to be drawn from the state treasury to meet the emergency.

**History:** Effective March 1, 1994.

**General Authority:** NDCC 36-01-08

**Law Implemented:** NDCC 36-01-19